



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------------------|------------------------|
| 09/895,932 | 06/29/2001 | Michael Wayne Brown | AUS920010354US1 | 9404 |
| 43307 | 7590 | 05/02/2007 | | |
| IBM CORP (AP) C/O AMY PATTILLO P. O. BOX 161327 AUSTIN, TX 78716 | | | EXAMINER LIVERSEEDGE, JENNIFER L | |
| | | | ART UNIT 3692 | PAPER NUMBER |
| | | | MAIL DATE 05/02/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/895,932

Applicant(s)

BROWN ET AL.

Examiner

Jennifer Liversedge

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,8-10,12-14,16-18,20-22,24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,8-10,12-14,16-18,20-22,24 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This Office Action is responsive to Applicant's amendment and request for reconsideration of application 09/895,932 filed on March 5, 2007.

The amendment contains original claims: 2, 8-9, 16-17 and 24-25.

The amendment contains amended claims: 1, 10 and 18.

The amendment contains previously presented claims: 4-6, 12-14 and 20-22.

Claims 3, 7, 11, 15, 19, 23 and 26-35 have been canceled.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-2, 4-6, 8-10, 12-14, 16-18, 20-22 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 7,089,203 B1 to Crookshanks (further referred to as Crookshanks), and further in view of "Asian jewelers carry on tradition in Little Saigon, Clients prefer to design rings, merchants say" by Robert Frank (further referred to as Frank).

Regarding claims 1-2, 8-10, 16-18 and 24-25, Crookshanks disclose a method, system and computer readable medium with instructions for coordinating a plurality of local and remote manufactures for a manufacturing order (Figures 21-23; column 1, lines 35-40; column 3, lines 15-24), said method comprising the steps of:

Facilitating, by at least one broker server (column 10, lines 55-64; column 14, lines 7-10; column 21, lines 4-15; column 27, lines 31-38), user selection of a customized manufacturing order for a product to be manufactured, after placement of the customized manufacturing order, by a particular local manufacturer selected by a user from among a plurality of local manufacturers (column 21, line 65 – column 22, line 2; column 23, lines 7-14; column 27, line 48 – column 28, line 3);

Dividing, by said broker server, a customized manufacturing order for the user into a plurality of manufacturable parts (Column 10, lines 21-30; column 16, lines 57-66; column 28, lines 23-30);

Submitting, by said broker server, a local bid request for the manufacturing order to a plurality of local manufacturers (column 26, lines 9-11; column 28, lines 23-30);

Receiving, by said broker server, at least one local bid for the manufacturing order from at least one of a plurality of local manufacturers specifying a selection of a plurality of manufacturable parts required to be manufactured by a remote manufacturer for at least one of a plurality of local manufacturers to produce the customized manufacturing order (column 26, lines 9-11; column 16, lines 57-66; column 28, lines 47-67);

Submitting, by said broker server, a remote bid request to a plurality of remote manufacturers for a selection of a plurality of manufacturable parts as requested in the at least one local bids (column 26, lines 12-15; column 28, lines 57-67);

Responsive to said broker server receiving at least one remote bid for at least one of the selection of the plurality of manufacturable parts, compiling, by the broker server, the at least one local bid and the at least one remote bid into a plurality of display options to enable the user to select said particular local manufacturer (column 9, lines 21-24; column 10, lines 21-30; column 13, lines 29-42; column 29, lines 17-31)

Responsive to the broker sever receiving a selection by the user of said particular local manufacturer controlling, by said broker server, placement of said customized manufacturing order with said particular local manufacturer (column 29, lines 22-31).

Crookshanks does not disclose:

wherein said plurality of local manufacturers locally distribute manufactured products to said user without shipping said manufactured products;

selecting at least one particular remote manufacturer from among the plurality of remote manufacturers to provide said selection of said plurality of manufacturable parts required by said particular local manufacturer;

based on selection of remote manufacturer, placement of a customized manufacturing order with a remote manufacturer.

However, Frank discloses:

wherein said plurality of local manufacturers locally distribute manufactured products to said user without shipping said manufactured products (page 2);

selecting at least one particular remote manufacturer from among the plurality of remote manufacturers to provide said selection of said plurality of manufacturable parts required by said particular local manufacturer (page 2);

based on selection of remote manufacturer, placement of a customized manufacturing order with a remote manufacturer (page 2).

It would be obvious to one of ordinary skill in the art to adapt the selection of remote manufacturers for assembly of a customized product at a local manufacturer where a customer is able to watch the assembly of components received from remote manufacturers as disclosed by Frank with the compilation of bids from remote and local suppliers supplied to a broker server as disclosed by Crookshanks. The motivation would be for a user to take advantage of reviewing all of the submitted and system-stored bids in order to receive the components of the user's choosing rather than the components of the local manufacturer's choosing and for the user to help monitor costs.

Regarding claims 4-5, 12-13 and 20-21, Crookshanks discloses providing the user with a plurality of available products, attributes, variables from which selection can be made, and wherein a graphical representation and a cost estimate of the manufactured order is provided based on user selection (column 4, lines 11-19 and lines 48-54; column 9, lines 21-25; column 10, lines 21-30; column 12, lines 25-32; column 16, lines 57-67; column 18, lines 17-33; column 26, lines 1-3; column 27, line 48 – column 28, line 38).

Regarding claims 6, 14 and 22, Crookshanks does not specifically disclose analyzing the customized manufacturing order for integrity and in response to finding any integrity flaws, providing the user with suggestions for adjustment. However, Crookshanks discloses where an array of interested parties from the project's start to finish have access to the central sever such that plans can be reviewed and progress tracked, etc., including such representatives as contractors, subcontractors, architects, insurers, permitting and inspecting agencies, engineering (column 5, lines 39-47; column 13, lines 29-37; column 27, lines 32-38) and it would be against these parties legal and moral interests as well as professional moral codes to sign of on drawings and specifications without analyzing the details for integrity flaws and then notifying the owner in order for modifications to be made.

Response to Arguments

Applicant's arguments with respect to claims 1-2, 4-6, 8-10, 12-14, 16-18, 20-22, and 24-25 have been considered but are moot in view of the new ground(s) of rejection.

Several references are referenced below which were not used as part of the rejection but which are relevant. The articles related to the development of customized products, in which the user/customer has choices regarding the customized product, and wherein the customer is encouraged to be involve in the process, from design to subcontractor and supplier bids, to materials selected, etc. While some of these articles disclose a manual process of these steps, Applicant is reminded of *In re Venner*, 262 F.2d 91, 95, 1209 USPQ 193, 194 (CCPA 1958) in which it was ruled obvious to automate a known manual process.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Townsend, Richard L. "Contracting for construction projects". The Internal Auditor. Altamonte Springs: June 1993. Vol. 50, Iss. 3; pg. 41. (7 pages). This article refers to four major mistakes commonly made in construction projects, one of those being allowing the contractor complete control over bid packages and material orders. Author states that the owner should be involved in the approval of subcontractors and be aware of what materials are being supplied, who they are being supplied by, and at

what cost, wherein owners should have access to all subcontractor and supplier bids as part of this selection process (pages 5-6).

Marion, Larry and Kay, Emily. "Customer of one: The next market paradigm". Software Magazine. Englewood: Nov 1997. Vol. 17, Iss. 13; pg. 38. (6 pages).
Authors disclose the criticality of information flowing throughout the tiers and layers of suppliers in the development of a customized product, including an OEM, an assembler, and suppliers and contractors (page 4).

Arnold, Joan. "For lovers of sparkling jewelry, colored stones can be gems". The Sunday Patriot – News. Harrisburg, Pa.: Dec. 17, 1989. pg. G. (3 pages). Author discloses where users have many selections to chose from when creating customized jewelry, such as stone type, color, shape, size and indicates that the user should expect to be fully involved in the process and wherein the customer can supply a design and work directly with suppliers (pages 2-3).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

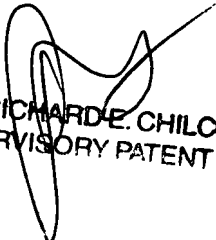
Art Unit: 3692

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Jennifer Liversedge whose telephone number is 571-272-3167. The examiner can normally be reached on Monday – Friday, 8:30 – 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at 571-272-6777. The fax number for the organization where the application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER

Jennifer Liversedge

Examiner

Art Unit 3692